

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Monique Lynne Garvanian
1000 National Avenue, #424
San Bruno, CA 94066

Registered Nurse License No. 475626

Respondent

Case No. 2008-75

OAH No. L-2007110303

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on July 3, 2009.

IT IS SO ORDERED June 3, 2009.

Susanne Phillips, MSN, RN, FNP-BC

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 MONIQUE LYNNE GARVANIAN
1000 National Avenue, #424
San Bruno, CA 94066
14 Registered Nurse License No. 475626

15 Respondent.

Case No. 2008-75

OAH No. L-2007110303

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
21 the Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
23 by Michel W. Valentine, Deputy Attorney General.

24 2. Respondent Monique Lynne Garvanian (Respondent) is represented in this
25 proceeding by Don Erik Franzen, Esq., whose address is 9595 Wilshire Boulevard, Suite 305,
26 Beverly Hills, California 90212.

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1 3. On or about March 31, 1992, the Board of Registered Nursing (Board)
2 issued Registered Nurse License No. 475626 to Respondent. The Registered Nurse License was
3 in full force and effect at all times relevant to the charges brought in Accusation No. 2008-75,
4 and will expire on April 30, 2010, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 2008-75 was filed before the Board and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on September 5, 2007. Respondent timely filed her Notice of
9 Defense contesting the Accusation. A copy of Accusation No. 2008-75 is attached as exhibit A
10 and incorporated herein by reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, fully discussed with counsel, and
13 understands the charges and allegations in Accusation No. 2008-75. Respondent has also
14 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
15 Settlement and Disciplinary Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the
17 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
18 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
19 the right to present evidence and to testify on her own behalf; the right to the issuance of
20 subpoenas to compel the attendance of witnesses and the production of documents; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
24 each and every right set forth above.

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1 **CULPABILITY**

2 8. Respondent admits the truth of each and every charge and allegation in
3 Accusation No. 2008-75.

4 9. Respondent agrees that her Registered Nurse License is subject to
5 discipline, and she agrees to be bound by the Board's imposition of discipline as set forth in the
6 Disciplinary Order below.

7 **CIRCUMSTANCES IN MITIGATION**

8 10. Respondent Monique Lynne Garvanian has never been the subject of any
9 prior disciplinary action. Her underlying conviction occurred in May 2002, almost seven years
10 ago, and she has had no additional arrests or convictions since then. She is admitting
11 responsibility at an early stage in the proceedings, and appears to be genuinely committed to
12 future compliance with all governing laws and regulations. Respondent admitted herself into a
13 residential treatment program at the Women's Recovery Association from November 6, 2003
14 until February 4, 2004 and successfully completed that program. Respondent also sought out and
15 participated in weekly psychotherapy from August 23, 2004 to December 30, 2004 and has been
16 active in AA 12-Step program on an on-going basis. Further, none of the grounds for discipline
17 occurred during the course of Respondent's job performance as a registered nurse.

18 **RESERVATION**

19 11. The admissions made by Respondent herein are only for the purposes of
20 this proceeding, or any other proceedings in which the Board or other professional licensing
21 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

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1 CONTINGENCY

2 12. This stipulation shall be subject to approval by the Board. Respondent
3 understands and agrees that counsel for Complainant and the staff of the Board may
4 communicate directly with the Board regarding this stipulation and settlement, without notice to
5 or participation by Respondent or her counsel. By signing the stipulation, Respondent
6 understands and agrees that she may not withdraw her agreement or seek to rescind the
7 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
8 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
9 no force or effect. Except for this paragraph, it shall be inadmissible in any legal action between
10 the parties, and the Board shall not be disqualified from further action by having considered this
11 matter.

12 13. The parties understand and agree that facsimile copies of this Stipulated
13 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
14 force and effect as the originals.

15 14. In consideration of the foregoing admissions and stipulations, the parties
16 agree that the Board may, without further notice or formal proceeding, issue and enter the
17 following Disciplinary Order:

18 DISCIPLINARY ORDER

19 IT IS HEREBY ORDERED that Registered Nurse License No. 475626, issued to
20 Respondent, is revoked. However, the revocation is stayed and Respondent is placed on
21 probation for three (3) years on the following terms and conditions.

22 **Severability Clause.** Each condition of probation contained herein is a separate
23 and distinct condition. If any condition of this Order, or any application thereof, is declared
24 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
25 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
26 and enforceable to the fullest extent permitted by law.

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1 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
2 A full and detailed account of any and all violations of law shall be reported by Respondent to
3 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
4 compliance with this condition, Respondent shall submit completed fingerprint forms and
5 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
6 as part of the licensure application process.

7 **Criminal Court Orders:** If Respondent is under criminal court orders, including
8 probation or parole, and the order is violated, this shall be deemed a violation of these probation
9 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

10 2. **Comply with the Board's Probation Program.** Respondent shall fully
11 comply with the conditions of the Probation Program established by the Board and cooperate
12 with representatives of the Board in its monitoring and investigation of the Respondent's
13 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
14 within no more than 15 days of any address change and shall at all times maintain an active,
15 current license status with the Board, including during any period of suspension.

16 Upon successful completion of probation, Respondent's license shall be fully
17 restored.

18 3. **Report in Person.** Respondent, during the period of probation, shall
19 appear in person at interviews/meetings as directed by the Board or its designated
20 representatives.

21 4. **Residency, Practice, or Licensure Outside of State.** Periods of
22 residency or practice as a registered nurse outside of California shall not apply toward a reduction
23 of this probation time period. Respondent's probation is tolled, if and when she resides outside
24 of California. Respondent must provide written notice to the Board within 15 days of any change
25 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
26 returning to practice in this state.

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1 Respondent shall provide a list of all states and territories where she has ever been
2 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
3 provide information regarding the status of each license and any changes in such license status
4 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
5 new nursing license during the term of probation.

6 **5. Submit Written Reports.** Respondent, during the period of probation,
7 shall submit or cause to be submitted such written reports/declarations and verification of actions
8 under penalty of perjury, as required by the Board. These reports/declarations shall contain
9 statements relative to Respondent's compliance with all the conditions of the Board's Probation
10 Program. Respondent shall immediately execute all release of information forms as may be
11 required by the Board or its representatives.

12 Respondent shall provide a copy of this Decision to the nursing regulatory agency
13 in every state and territory in which she has a registered nurse license.

14 **6. Function as a Registered Nurse.** Respondent, during the period of
15 probation, shall engage in the practice of registered nursing in California for a minimum of 24
16 hours per week for 6 consecutive months or as determined by the Board.

17 For purposes of compliance with the section, "engage in the practice of registered
18 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
19 work in any non-direct patient care position that requires licensure as a registered nurse.

20 The Board may require that advanced practice nurses engage in advanced practice
21 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
22 Board.

23 If Respondent has not complied with this condition during the probationary term,
24 and Respondent has presented sufficient documentation of her good faith efforts to comply with
25 this condition, and if no other conditions have been violated, the Board, in its discretion, may
26 grant an extension of Respondent's probation period up to one year without further hearing in
27 order to comply with this condition. During the one year extension, all original conditions of
28 probation shall apply.

1 7. **Employment Approval and Reporting Requirements.** Respondent
2 shall obtain prior approval from the Board before commencing or continuing any employment,
3 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
4 performance evaluations and other employment related reports as a registered nurse upon request
5 of the Board.

6 Respondent shall provide a copy of this Decision to her employer and immediate
7 supervisors prior to commencement of any nursing or other health care related employment.

8 In addition to the above, Respondent shall notify the Board in writing within
9 seventy-two (72) hours after she obtains any nursing or other health care related employment.

10 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
11 terminated or separated, regardless of cause, from any nursing, or other health care related
12 employment with a full explanation of the circumstances surrounding the termination or
13 separation.

14 8. **Supervision.** Respondent shall obtain prior approval from the Board
15 regarding Respondent's level of supervision and/or collaboration before commencing or
16 continuing any employment as a registered nurse, or education and training that includes patient
17 care.

18 Respondent shall practice only under the direct supervision of a registered nurse
19 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
20 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
21 are approved.

22 Respondent's level of supervision and/or collaboration may include, but is not
23 limited to the following:

24 (a) Maximum - The individual providing supervision and/or collaboration is
25 present in the patient care area or in any other work setting at all times.

26 (b) Moderate - The individual providing supervision and/or collaboration is in
27 the patient care unit or in any other work setting at least half the hours Respondent works.
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1 (c) Minimum - The individual providing supervision and/or collaboration has
2 person-to-person communication with Respondent at least twice during each shift worked.

3 (d) Home Health Care - If Respondent is approved to work in the home health
4 care setting, the individual providing supervision and/or collaboration shall have person-to-
5 person communication with Respondent as required by the Board each work day. Respondent
6 shall maintain telephone or other telecommunication contact with the individual providing
7 supervision and/or collaboration as required by the Board during each work day. The individual
8 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
9 site visits to patients' homes visited by Respondent with or without Respondent present.

10 9. **Employment Limitations.** Respondent shall not work in any private duty
11 position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an
12 in-house nursing pool. Respondent, prior to Board approval, may work for a nurse's registry.

13 Respondent shall not work for a licensed home health agency as a visiting nurse
14 unless the registered nursing supervision and other protections for home visits have been
15 approved by the Board. Respondent shall not work in any other registered nursing occupation
16 where home visits are required.

17 Respondent shall not work in any health care setting as a supervisor of registered
18 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
19 nurses and/or unlicensed assistive personnel on a case-by-case basis.

20 Respondent shall not work as a faculty member in an approved school of nursing
21 or as an instructor in a Board approved continuing education program.

22 Respondent shall work only on a regularly assigned, identified and predetermined
23 worksite(s) and shall not work in a float capacity.

24 If Respondent is working or intends to work in excess of 40 hours per week, the
25 Board may request documentation to determine whether there should be restrictions on the hours
26 of work.

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1 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
2 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
3 than six months prior to the end of her probationary term.

4 Respondent shall obtain prior approval from the Board before enrolling in the
5 course(s). Respondent shall submit to the Board the original transcripts or certificates of
6 completion for the above required course(s). The Board shall return the original documents to
7 Respondent after photocopying them for its records.

8 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
9 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
10 amount of \$500.00. Respondent shall pay the \$500.00 cost recovery amount in full within 60
11 days of the effective date of the Board's decision.

12 12. **Violation of Probation.** If Respondent violates the conditions of her
13 probation, the Board, after giving Respondent notice and an opportunity to be heard, may set
14 aside the stay order and impose the stayed revocation of Respondent's license.

15 If during the period of probation, an accusation or petition to revoke probation has
16 been filed against Respondent's license or the Attorney General's Office has been requested to
17 prepare an accusation or petition to revoke probation against Respondent's license, the
18 probationary period shall automatically be extended and shall not expire until the accusation or
19 petition has been acted upon by the Board.

20 13. **License Surrender.** During Respondent's term of probation, if she ceases
21 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
22 probation, Respondent may surrender her license to the Board. The Board reserves the right to
23 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
24 take any other action deemed appropriate and reasonable under the circumstances, without
25 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
26 will no longer be subject to the conditions of probation.

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1 Surrender of Respondent's license shall be considered a disciplinary action and
2 shall become a part of Respondent's license history with the Board. A registered nurse whose
3 license has been surrendered may petition the Board for reinstatement no sooner than the
4 following minimum periods from the effective date of the disciplinary decision:

5 (1) Two years for reinstatement of a license that was surrendered for any
6 reason other than a mental or physical illness; or

7 (2) One year for a license surrendered for a mental or physical illness.

8 14. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
9 shall completely abstain from the possession, injection or consumption by any route of all
10 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
11 the same are ordered by a health care professional legally authorized to do so as part of
12 documented medical treatment. Respondent shall have sent to the Board, in writing and within
13 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
14 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
15 medication will no longer be required, and the effect on the recovery plan, if appropriate.

16 Respondent shall identify for the Board a single physician, nurse practitioner or
17 physician assistant who shall be aware of Respondent's history of substance abuse and will
18 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
19 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
20 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
21 condition. If any substances considered addictive have been prescribed, the report shall identify a
22 program for the time limited use of any such substances.

23 The Board may require the single coordinating physician, nurse practitioner, or
24 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
25 addictive medicine.

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1 15. **Submit to Tests and Samples.** Respondent, at her expense, shall
2 participate in a random, biological fluid testing or a drug screening program which the Board
3 approves. The length of time and frequency will be subject to approval by the Board.
4 Respondent is responsible for keeping the Board informed of Respondent's current telephone
5 number at all times. Respondent shall also ensure that messages may be left at the telephone
6 number when she is not available and ensure that reports are submitted directly by the testing
7 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
8 to the Board by the program and Respondent shall be considered in violation of probation.

9 In addition, Respondent, at any time during the period of probation, shall fully
10 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
11 tests and samples as the Board or its representatives may require for the detection of alcohol,
12 narcotics, hypnotics, dangerous drugs, or other controlled substances.

13 If Respondent has a positive drug screen for any substance not legally authorized
14 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
15 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
16 from practice pending the final decision on the petition to revoke probation or the accusation.
17 This period of suspension will not apply to the reduction of this probationary time period.

18 If Respondent fails to participate in a random, biological fluid testing or drug
19 screening program within the specified time frame, Respondent shall immediately cease practice
20 and shall not resume practice until notified by the Board. After taking into account documented
21 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
22 Board may suspend Respondent from practice pending the final decision on the petition to
23 revoke probation or the accusation. This period of suspension will not apply to the reduction of
24 this probationary time period.

25 16. **Physical Examination.** Within 45 days of the effective date of this
26 decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
27 physician assistant, who is approved by the Board before the assessment is performed, submit an
28 assessment of the Respondent's physical condition and capability to perform the duties of a

1 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
2 medically determined, a recommended treatment program will be instituted and followed by the
3 respondent with the physician, nurse practitioner, or physician assistant providing written reports
4 to the Board on forms provided by the Board.

5 If Respondent is determined to be unable to practice safely as a registered nurse,
6 the licensed physician, nurse practitioner, or physician assistant making this determination shall
7 immediately notify the Board and respondent by telephone, and the Board shall request that the
8 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
9 shall immediately cease practice and shall not resume practice until notified by the Board.
10 During this period of suspension, Respondent shall not engage in any practice for which a license
11 issued by the Board is required until the Board has notified respondent that a medical
12 determination permits respondent to resume practice. This period of suspension will not apply to
13 the reduction of this probationary time period.

14 If the Respondent fails to have the above assessment submitted to the Board
15 within the 45-day requirement, Respondent shall immediately cease practice and shall not resume
16 practice until notified by the Board. This period of suspension will not apply to the reduction of
17 this probationary time period. The Board may waive or postpone this suspension only if
18 significant, documented evidence of mitigation is provided. Such evidence must establish good
19 faith efforts by the Respondent to obtain the assessment, and a specific date for compliance must
20 be provided. Only one such waiver or extension may be permitted.

21 **17. Participate in Treatment/Rehabilitation Program for Chemical**
22 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
23 period or shall have successfully completed prior to commencement of probation a Board-
24 approved treatment/rehabilitation program of at least six months duration. As required, reports
25 shall be submitted by the program on forms provided by the Board. If Respondent has not
26 completed a Board-approved treatment/rehabilitation program prior to commencement of
27 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
28 a program. If a program is not successfully completed within the first nine months of probation,

1 the Board shall consider Respondent in violation of probation.

2 Based on Board recommendation, each week Respondent shall be required to
3 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
4 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
5 by the Board. If a nurse support group is not available, an additional 12-step meeting or
6 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
7 such attendance to the Board during the entire period of probation. Respondent shall continue
8 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
9 mental health examiner and/or other ongoing recovery groups.

10 **18. Mental Health Examination.** The Respondent shall, within 45 days of
11 the effective date of this decision, have a mental health examination including psychological
12 testing as appropriate to determine her capability to perform the duties of a registered nurse. The
13 examination will be performed by a psychiatrist, psychologist or other licensed mental health
14 practitioner approved by the Board. The examining mental health practitioner will submit a
15 written report of that assessment and recommendations to the Board. All costs are the
16 responsibility of the Respondent. Recommendations for treatment, therapy or counseling made
17 as a result of the mental health examination will be instituted and followed by the Respondent.

18 If Respondent is determined to be unable to practice safely as a registered nurse,
19 the licensed mental health care practitioner making this determination shall immediately notify
20 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
21 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
22 practice and may not resume practice until notified by the Board. During this period of
23 suspension, Respondent shall not engage in any practice for which a license issued by the Board
24 is required, until the Board has notified Respondent that a mental health determination permits
25 Respondent to resume practice. This period of suspension will not apply to the reduction of this
26 probationary time period.

27 If the Respondent fails to have the above assessment submitted to the Board
28 within the 45-day requirement, Respondent shall immediately cease practice and shall not resume

1 practice until notified by the Board. This period of suspension will not apply to the reduction of
2 this probationary time period. The Board may waive or postpone this suspension only if
3 significant, documented evidence of mitigation is provided. Such evidence must establish good
4 faith efforts by the Respondent to obtain the assessment, and a specific date for compliance must
5 be provided. Only one such waiver or extension may be permitted.

6 19. **Therapy or Counseling Program.** Respondent, at her expense, shall
7 participate in an *on-going* counseling program until such time as the Board releases him/her from
8 this requirement and only upon the recommendation of the counselor. Written program reports
9 from the counselor will be required at various intervals.

10 20. **Petition for Early Termination of Probation.** The parties agree that
11 Respondent may petition the Board for early termination of probation, and full restoration of her
12 license, after a period of one year. In petitioning the Board for such early termination,
13 Respondent shall present continuing evidence of rehabilitation and good character, which the
14 Board, in its sole discretion, shall consider.

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DATED: 04.25.09

MONIQUE LYNNE GARVANIAN
Respondent

DATED: 4-27-09


DON ERIK FRANZEN, ESQ.
Attorney for Respondent

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Exhibit A

Accusation No. 2008-75

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 MICHEL W. VALENTINE, State Bar No. 153078
Deputy Attorney General
4 California Department of Justice
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-75

13 MONIQUE LYNNE GARVANIAN
337 S. Fremont St., #311
San Mateo, CA 94401

ACCUSATION

14 Registered Nurse License No. 475626

15 Respondent.

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17 Complainant alleges:

18 PARTIES

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs (Board).

22 2. On or about March 31, 1992, the Board issued Registered Nurse License
23 Number 475626 to Monique Lynne Garvanian (Respondent). The Registered Nurse License was
24 in full force and effect at all times relevant to the charges brought herein and will expire on April
25 30, 2008, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

6. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or

1 injurious to himself or herself, any other person, or the public or to the extent that such use.
2 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
3 license.

4 “(c) Be convicted of a criminal offense involving the prescription, consumption,
5 or self-administration of any of the substances described in subdivisions (a) and (b) of this
6 section, or the possession of, or falsification of a record pertaining to, the substances described in
7 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
8 thereof.”

9 7. Section 2765 of the Code states:

10 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
11 made to a charge substantially related to the qualifications, functions and duties of a registered
12 nurse is deemed to be a conviction within the meaning of this article. The board may order the
13 license or certificate suspended or revoked, or may decline to issue a license or certificate, when
14 the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or
15 when an order granting probation is made suspending the imposition of sentence, irrespective of
16 a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such
17 person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
18 verdict of guilty, or dismissing the accusation, information or indictment.”

19 8. Section 490 of the Code states:

20 “A board may suspend or revoke a license on the ground that the licensee has
21 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
22 duties of the business or profession for which the license was issued. A conviction within the
23 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
24 contendere. Any action which a board is permitted to take following the establishment of a
25 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
26 been affirmed on appeal, or when an order granting probation is made suspending the imposition
27 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
28 Penal Code.”

1 9. California Code of Regulations, title 16, section 1444, states:

2 “A conviction or act shall be considered to be substantially related to the
3 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
4 present or potential unfitness of a registered nurse to practice in a manner consistent with the
5 public health, safety, or welfare.”

6 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
7 request the administrative law judge to direct a licensee found to have committed a violation or
8 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
9 and enforcement of the case.

10 FIRST CAUSE FOR DISCIPLINE

11 (Conviction of a Substantially Related Crime)

12 11. Respondent has subjected her license to disciplinary action under sections
13 2750, 2761, subdivision (f), 2765 and 490 of the Code, in conjunction with California Code of
14 Regulations, title 16, section 1444, in that Respondent was convicted of a crime which is
15 substantially related to the qualifications, functions and duties of a licensed registered nurse, as
16 follows:

17 a.. On or about May 10, 2002, Respondent was convicted by the Court on a
18 plea of nolo contendere to one count of violating Vehicle Code section 23152, subdivision (b), a
19 misdemeanor, (driving with .08% or higher of blood alcohol) in the San Bernardino County,
20 Barstow District, Superior Court, Case No. TBA43170, entitled *The People of the State of*
21 *California v. Monique Lynne Garvanian*.

22 SECOND CAUSE FOR DISCIPLINE

23 (Conviction Involving Alcohol)

24 12. Respondent is subject to disciplinary action under sections 2750, 2761,
25 subdivision (a); and 2762, subdivision (c), of the Code, on the grounds of unprofessional
26 conduct, in that Respondent was convicted of a crime involving alcohol, as more fully set forth in
27 paragraph 11, above.

28 \\

1 FOURTH CAUSE FOR DISCIPLINE

2 (Violation of Act)

3 14. Respondent is subject to disciplinary action pursuant to sections 2750 and
4 2761, subdivision (d), in that Respondent violated the provisions or terms of the Nursing Practice
5 Act, or regulations adopted pursuant to it, as more fully discussed in paragraphs 11 through 13,
6 above.

7 PRAYER

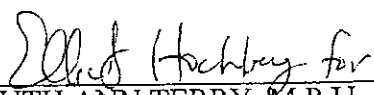
8 WHEREFORE, Complainant requests that a hearing be held on the matters herein
9 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 475626, issued
11 to Monique Lynne Garvanian;

12 2. Ordering Monique Lynne Garvanian to pay the Board of Registered
13 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
14 Business and Professions Code section 125.3;

15 3. Taking such other and further action as deemed necessary and proper.

16
17 DATED: 8/28/07

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19 
20 RUTH ANN TERRY, M.P.H., R.N.
21 Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California

25 Complainant

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